

PT 97-32

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

KOREAN JANG SUNG PRESBYTERIAN)		
CHURCH OF CHICAGO)	Docket #	94-16-1116
Applicant)		
)	Parcel Index #	13-02-431-034-0000
))		
v.)		
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. John W. Mauck, Mauck, Bellande & Cheely, attorney for Korean Jang Sung Presbyterian Church of Chicago.

Synopsis:

The hearing in this matter was held at the James R. Thompson Center, 100 W. Randolph, Chicago, Illinois on April 4, 1997, to determine whether or not Cook County parcel numbered 13-02-431-034-000 qualified for exemption during the 1994 assessment year.

Duk Lee, pastor of Korean Jang Sung Presbyterian Church of Chicago, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include first, whether the applicant was the owner of the parcel during the 1994 assessment year. The second issue is whether the applicant is a religious organization. The last issue is whether these parcels were used by the applicant for exempt purposes during the 1994 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel in question during the 1994 assessment year. Additionally, it is determined that the applicant used the parcel for religious purposes during the taxable year in

question. It is also determined that the applicant is a religious organization and that this parcel qualifies for exemption for the 1994 assessment year.

Findings of Fact:

1. The position of the Illinois Department of Revenue, (hereinafter the "Department"), that Cook County parcel index number 13-02-431-034-0000 did not qualify for a property tax exemption for the 1994 assessment year, was established by the admission into evidence of Department's Exhibits 1 through 5.

2. In 1992, the applicant entered into a contract for deed with Full Gospel Grace Church to purchase the property in question. (Tr. p 14; Dept. Ex. No. 1)

3. The applicant has been making monthly payments to Full Gospel Grace Church for the property. (Tr. pp. 15-16)

4. The applicant was unable to get its own mortgage on the property, so in 1997 they and Full Gospel Grace Church memorialized the oral extension of the installment agreement regarding the remaining \$225,000.00 that they owed for the property. (Tr. pp. 17-18; Dept. Ex. No. 5)

5. The property is used as a church on Sunday and at other times for Bible study as well as a Korean Cultural School and Sunday School. (Tr. pp. 19-21; Dept. Ex. No. 1)

6. The applicant is affiliated with the Korean American Presbyterian Church which has over 400 churches in the United States. (Tr. p. 21)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found

at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit, is exempt,...

In The People v. Deutsche Gemeinde, 249 Ill. 132 (1911) the Illinois Supreme Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptance and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction.

The Illinois Appellate Court has stated that a purchaser under a contract for deed, rather than the contract vendor, is the owner of the property for purposes of exemption of the parcel for property tax purposes. Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill.App.3d 678 (1994) and Christian Action Ministry v. Department of Local Affairs, 74 Ill.2d 51 (1978)

Based upon the foregoing, I find that the applicant is a religious organization that owned the parcel in question during the 1994 assessment year and used it for exempt purposes. I therefore recommend that Cook County parcel index number 13-02-431-034-0000 be exempt from property taxation for the taxable year in question.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
June 23, 1997